

REMARKS

By the present amendment, Applicant has amended Claims 1 and 12. Claims 1-12 remain pending in the present application. Claims 1 and 12 are independent claims.

Applicant appreciates the courtesies extended to Applicant's representative during the personal interview held June 15, 2005. The present response summarizes the agreement reached. At the interview a proposed amendment to the claims was presented for discussion. Proposed amended Claims 1 and 12 set forth, *inter alia*, a telescoping of the frame for adjusting the lever arm length of the frame. Arguments were advanced that neither of the applied prior art references taught the telescoping upper end of the frame. The Examiner indicated that a more specific recitation that the telescoping frame is telescoping at the upper end would distinguish over the applied prior art or record.

In the recent Office Action mailed March 24, 2005 the Examiner rejected Claims 1, and 8-11 under 35 U.S.C. § 102(b) as being anticipated by Messenger. Claims 2-7 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Messenger in view of Carlson. These rejections are respectfully traversed. However, the indication by the Examiner during the aforementioned interview that Claims 1-12 would define the claimed embodiments over the prior art of record is noted with appreciation.

Applicant has amended independent Claims 1 and 12 in accordance with the Examiner's suggestions. Applicant respectfully submits that for at least these reasons, amended independent Claims 1 and 12, and Claims 2-11, depending from Claim 1, are allowable over the prior art applied of record.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The applied prior art reference to Messenger discloses a snow removal tool having a frame, a handle assembly, a wheel assembly, and a scoop assembly. The frame has an upper end and a lower end. The handle assembly is mounted to the upper end. The scoop assembly is mounted to the lower end. The wheel assembly is disposed intermediately of the upper and lower ends. The snow removal tool of Messenger does not teach a telescoping upper end of the frame, as now recited in independent Claim 1. For this reason Applicant submits that Claims 1 and 8-11 are not anticipated by the applied prior art reference to Messenger. Applicant respectfully requests the withdrawal of the rejection under 35 U.S.C. § 102(b).

Likewise, with respect to the rejection under 35 U.S.C. 103(a), Messenger fails to show a telescoping upper end of the frame. The secondary applied prior art reference to Carlson discloses a snow remover having a frame, a snow scoop assembly mounted to one end of the frame, a handle assembly pivotally attached to the opposite end of the frame, and a wheel assembly mounted beneath the scoop assembly. As seen in the Messenger

reference, Carlson fails to show a telescoping upper end of the frame. The alleged combination equates the pivotal feature of the Carlson reference to the telescoping and pivoting limitations of Claims 2-7, and 12. Such generalization is inconsistent with the appropriate application of 35 U.S.C. 103(a), in that these references when combined as suggested by the Examiner fail to provide a *prima facia* case of obviousness because there is no guidance nor motivation found in either of these references that would have led one having ordinary skill in the art to arrive at the telescoping upper frame end as recited in the present claims. Applicant respectfully requests the withdrawal of this particular ground of rejection.

Applicant has amended the claims the present case to more specifically recite the upper end of the frame being telescoping, inherently providing a variable lever arm length for manipulating the scoop ladened with snow, or the like. Additionally, Applicant has presented arguments as to the inapplicability of the applied prior art references alone or in combination, under 35 U.S.C. 102(b) and 35 U.S.C. 103(a). Applicant respectfully submits that for at least these reasons, Claims 1-12 are allowable over the prior art applied of record.

The claims in this application have been revised to more particularly define Applicant's unique construction in view of the prior art of record. Reconsideration of the claims in light of the amendments and for the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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